Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	))))	CC Docket No. 96-128

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DEC 1 - 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RECONSIDERATION

American Alpha Dispatch Services, Inc., Absolute Best Monitoring, Inc., Affordable Message Center, Inc., Procommunications, Inc., National Dispatch Center, Inc., Abacus, Inc., United Cellular Paging, Inc., Dispatch America, Inc., Alphanet, Inc. and All Office Support, Inc. (hereinafter "The Dispatching Parties"), through counsel and pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. §1.429, hereby respectfully requests reconsideration of the Commission's Second Report and Order in the above-captioned proceeding.[1]

I. BACKGROUND

The Dispatching Parties are the primary providers of toll free numbers with live operator assistance (i.e. answering service) which transcribes a caller's message to paging customers who have alphanumeric-type pagers. Essentially, the Dispatching Parties are the companies which put the words onto pagers. The Dispatching Parties represent approximately 90% of the market for this service.

The Dispatching Parties, who are consumers of the services offered by wireless carriers, only recently became aware of this proceeding. Since the Dispatching Parties are not Commission

[1] 62 FR 24583.

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licensees, carriers, or otherwise regulated by the Commission, the Dispatching Parties' first notice of this proceeding was a letter received by American Alpha Dispatch Services from MCI during October 1997 informing American that the carrier would be imposing these additional charges.[2]

The Dispatching Parties share the Commission's desire to ensure the wide availability of pay telephones and the just compensation for pay telephone owner. However, the Dispatching Parties are concerned that the Commission has failed to consider the impact of its rules on customers such as the Dispatching Parties and has failed to consider alternatives which would provide just compensation while at the same time permitting full choice on the part of the consumer.

Calls originated from pay telephones represent approximately 28% of the calls made to the Dispatching Parties. Thus, the impact of this proceeding on the Dispatching Parties is enormous. Implementation of the compensation rules as detailed in the Second Report and Order has the possible impact of making the Dispatching Parties non-competitive in the communications marketplace. Therefore, it is imperative that the Commission carefully consider its new Rules and its impact on this industry and on the consumer.

II. PETITION FOR RECONSIDERATION

It must be recognized that pay telephone compensation (no matter what rate is adopted) is ultimately a cost that will be borne by the consumer. As evidenced by the MCI letter, long distance and 800/888 number providers will simply pass this cost onto the customer, who will then pass this cost onto the consumer in the form of high prices for goods. Of course, each provider along the line will make whatever efforts are necessary to "mark-up" these charges. Therefore, the final consumer

[2]A copy of the letter is attached hereto. Similar letters were also received during the month of October from LDDS, Frontier, Sprint and AT&T.

price will most likely be more than the compensation rate. Thus, this proceeding is not simply one in which parties pass costs off from one to the other.

In light of this reality, it is important that the Commission ensure that the party that ultimately bears the cost for the pay telephone compensation is the party that ultimately benefits from it use. At first blush, it may seem that the 800/888 number customer is the ultimate beneficiary from its use, but this is not always the case. While 800/888 number blocking from pay telephones, such as that offered by MCI in its letter to American Alpha, may seem to remedy any problem, it only addresses one aspect of the problem.

800/888 numbers are utilized by a variety of different users for a variety of different uses. A trucking company might have an 800/888 number for its drivers to call in from the road. This company would not want its number blocked from pay telephones. A computer company may have an 800/888 number for its customer service department. This company may be able to benefit from pay telephone call blocking.

In the case of the Dispatching Parties, it is important that 800/888 pay telephone service be available, but at the paging customer's option. While this is possible under the blocking system, it is not possible for the customer to decide which calls it can receive, and therefore must pay for. Therefore, it is important that customers have some ability limit their potential liability, as the Dispatching Parties are already aware of miscreants purchasing pay telephones and hooking up autodialers in order to reap the benefits of the compensation for fraudulent calls to 800/888 numbers.

For example, one of the Dispatching Parties, All Office Support, Inc., has approximately 2,000 800 numbers and processes approximately 250,000 calls per month. Beginning Tuesday evening, November 25, 1997, and ending on the morning of December 1, 1997, All Office logged calls to determine the extent of fraudulent calls. All Office discovered that it received approximately 500 calls where an automated voice said "What's that?", then paused, and then said "I must have dialed a wrong number." Thus, in one week, All Office was forced to pay $150.00 for this fraud. And while this may sound trivial in this instance, this represents only one week, and only one company. This abuse must be multiplied by the millions of other 800/888 customers who similarly have no defense from this fraud other than the total blocking of pay telephone calls.

There is no limit to the manner in which All Office and other similarly situated companies may be defrauded under the Commission's new rules. By making it the responsibility of the end customer to pay the freight, the Commission has created open season on 800/888 number holders. Further, the Commission has failed to create a mechanism for the 800/888 number holder to receive credit for "wrong numbers".

"Full blocking" is not a good alternative for the Dispatching Parties. However, it appears that the Commission did not fully explore other "Caller Pay Options". First, the Commission should create rules to permit "wrong number" credit. Alternatively, the Commission should provide that there is <u>no compensation</u> for calls lasting less than 15 seconds. In this manner, "wrong numbers" would not be compensated, and no credit necessary. Further, number holders would not need to log calls and attempt to receive credit after-the-fact.[3]

The Commission's action in this docket is directly opposite to its action in WT Docket No. 97-207, the "Calling Party Pays" proceeding. In that proceeding, the Commission is attempting to

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[3]Certainly, some callers might try to "beat the system", but making "I made it safely"-type calls of less than 15 seconds, but these type of telephone calls are rare for 800/888 numbers, and are certainly de minimus in comparison to the huge benefits to the caller of fraud which is possible under the Commission's new rules.

re-write its rules to require the calling party pays the airtime charge for a call to a wireless customer. Calling party pays prevents a fraud on the wireless customer (along with other benefits). However, the Commission has elected to make the opposite decision with regard to 800/888 number holders, without consideration of the same factors which weigh heavily in the wireless Calling Party Pays proceeding. The Dispatching Parties believes that many of the same considerations that make Calling Party Pays feasible and desirable in the wireless context make it feasible, desirable and manageable in the 800/888 context.

The Dispatching Parties would support an alternative where the caller is informed that the call is toll-free from a business or residence phone, but a coin deposit is required to dial a toll-free number from a pay telephone. The caller would then have the option to complete the call or not. There is a great degree of "free-choice" with this option.

With the "Modified Caller Pays" option, it is very evident to anyone who has ordered and implemented "800" toll-free service that their number may be "restricted" in some form. For example, calls from the immediate calling area may be blocked and an intercept message heard by the caller. In other cases, calls may be blocked from the local calling area, but statewide access would be allowed. In this case, calls from out-of-state may also be blocked with an intercept message. Selected individual area codes from different parts of the country or Canadian access may be blocked from service with an intercept message while other calls are allowed to pass. "Restrictions" with intercept messages are quite common and this technology exists today.

Indeed, even within the local calling area, certain entire area codes may be blocked, including a particular individual telephone number from any area code being blocked with an intercept message. This blocking could be from any phone, business, residential or pay phone.

The Dispatching Parties believe that this "Modified Call Pays" option would satisfy the PSP's as well as those who "foot the bill". The party responsible for the billing on their toll free number could specify which type of service they desire: 1) FULL ACCESS from any phone; or, 2) "PAID OPTION ACCESS" from a pay telephone. In the latter case, the caller would be informed that a coin deposit must be made at the request of the toll-free number holder in order to connect to and complete the call free of long distance toll charges.

Customers choosing the "Full Access" option would have the carrier bill the number holder this PSP charge and, because the number holder agreed to this level of service, they remit payment. With the "Paid Option Access", the caller would choose either to deposit the coins and complete the call or walk away. If the caller walks away, the PSP has incurred no cost. If the caller chooses to make the deposit, the PSP has earned its "access" fee and simply collects the coins as usual.

Within these options, those firms desiring "Full access" (such as trucking firms, service companies or any company that has a need for employees or customers to contact them at the least possible cost from a pay phone) would be able to budget and accept this pay phone surcharge. On the other hand, those firms or organizations that are willing to accept the normal toll-free costs but not the pay phones surcharges would not be overwhelmed by the "per call" surcharges. This is true "freedom of choice."

The proposed toll-free two service level option could easily be applied to the pre-paid calling card companies and to the telephone credit card companies as well. In the case of the pre-paid calling card, the caller simply deposits the coins, or the card company deducts the surcharge from the pre-paid minutes. The traditional telephone "credit card" firms would be able to do likewise. The users of either of these cards would be informed of their options and make their choices. Competition between those organizations would still exist and the PSP's would still be compensated for pay phone usage.

Caller notice should also be made with regard to this option. Just as the posted announcements on pay phones make known the latest tariff of 35-cents, a similar announcement would inform callers that certain 800/888 calls may require a coin deposit.

The PSP's would be properly compensated for the usage of their equipment. The caller has the freedom of choice to deposit coins or not make the call from a pay telephone...the same freedom they have in deciding that they do not wish to pay 35-cents to make a "local" call.

The increased cost of a "local" call will aid the consumer because there will be more competition in the pay phone industry and more phones will then become available in more remote areas. Likewise, the suggested "Modified Caller Pays" plan would allow more competition in the paging industry by providers not needing to pass inflated costs along to their consumers.

III. CONCLUSION

The Dispatching Parties would be substantially harmed by the implementation of the current compensation plan. However, implementation of the Dispatching Parties' proposal ultimately serves each party in the process, while accomplishing the Commission's goals. The proposal is fully consistent with the Commission's responsibilities under the Telecommunications Act, and should be adopted to increase consumer options and help to limit fraud.

WHEREFORE, the premises considered, it is respectfully requested that the Commission RECONSIDER its decision in the Second Report and Order in the above-captioned proceeding consistent with the views expressed herein.

Respectfully submitted,

AMERICAN ALPHA DISPATCH SERVICES, INC.
ABSOLUTE BEST MONITORING, INC.
AFFORDABLE MESSAGE CENTER, INC.
PROCOMMUNICATIONS, INC.
NATIONAL DISPATCH CENTER, INC.
ABACUS, INC.
UNITED CELLULAR PAGING, INC.
DISPATCH AMERICA, INC.
ALPHANET, INC.
ALL OFFICE SUPPORT, INC.

By: ______________________
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Their Attorney

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Date: December 1, 1997

MCI

October 15, 1997

Sid Mann
American Alpha
114 New South Rd
Hicksville, NY 11801-5223

RE: IMPORTANT NEWS ABOUT AN FCC MANDATE THAT IMPACTS YOUR TOLL FREE SERVICE AND REQUIRES YOUR ACTION BY OCTOBER 24, 1997.

Dear Sid Mann:

Effective October 13, 1997, MCI will charge its toll free customers a per-call payphone use charge for each payphone originated toll free call, including remote access and calling card access calls.

This charge is a result of a key provision of the Telecommunications Act of 1996 which states that payphone service providers are to be compensated for all non-coin calls completed from their payphones.

Because these charges are to be paid by the carriers who transport the calls, they will be assessed and appear on your MCI invoice beginning in December 1997. The amount of the charge will be $.30 per call. MCI and other carriers appealed the FCC's initial decision that requires common carriers to pay a per call charge. Moreover, a Federal Court overturned the FCC's decision. The FCC's response ordered per call compensation to commence October 7, 1997 and remain in place for two years. In addition, the FCC has granted a waiver to certain LECs/PSPs allowing them to delay the provision of unique payphone coding digits until March 9, 1998.

In response to customer requests, MCI will offer Payphone Toll Free Blocking Service where available. This service will block the completion of toll free calls from payphones. Payphone Toll Free Blocking Service will begin to be offered on November 15, 1997. This date is subject to change pending FCC action or MCI development delays as a result of those changes. MCI expects to have full blocking capability in place by March 1998.

As a result of the recent FCC waiver and resulting development implications, blocking will not be available for some calls. Where calls are not able to be blocked, your company will be responsible for the associated transport charges for these calls including payphone use charges. Blocking is not available for remote access and calling card access.

If you wish to implement Payphone Toll Free Blocking on any or all for your toll free numbers, you must contact MCI by October 24, 1997 in order to request the service. The charge for this service is $250 per Corporate ID for installation and $250 per Corporate ID per month for the blocking service.

Please contact your MCI Account team today for more information or to request Payphone Toll Free Blocking Service.

Sincerely,

MCI Business Markets